

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:09-00137

MARK ANTHONY CANTRELL

PROBATION REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On August 6, 2015, the United States of America appeared by Eric P. Bacaj, Assistant United States Attorney, and the defendant, Mark Anthony Cantrell, appeared in person and by his counsel, Rachel E. Zimarowski, Assistant Federal Public Defender, for a hearing on the petition on probation and amendment thereto submitted by United States Probation Officer Jeffrey D. Bella. The defendant commenced a five-year term of probation in this action on August 7, 2011, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on August 29, 2011.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant committed the state and local offenses of expired operators, defective equipment, operation without certified inspection or failure to produce certificate, and driving on a suspended or revoked license for which he received a citation on August 20, 2013, when he was stopped by members of the West Virginia State Police, the defendant's license having been suspended again on September 18, 2013, for failure to respond to the citation; (2) the defendant committed the state offense of worker's compensation fraud during November and December, 2012, as evidenced by his agreement on September 8, 2014, to pay \$8,702 in restitution; (3) the defendant committed the state and local offense of theft of a public utility for which he was arrested on June 13, 2014, by members of the West Virginia State Police; (4) the defendant committed the state and local offense of first offense shoplifting on January 9, 2015, at which time he received a citation from members of the Charleston Police Department, as evidenced by his plea of guilty on January 15, 2015; (5) the defendant committed the state and local offenses

of defective equipment, improper use of evidences of registration, fraudulent motor vehicle inspection, and driving on a suspended license for which he was issued a citation on March 7, 2015, by members of the West Virginia State Police; (6) the defendant committed the state and local offenses of driving too fast for roadway conditions and driving while license suspended or revoked, the defendant having received a citation on April 26, 2015, from members of the West Virginia State Police; (7) the defendant failed to file monthly reports during the year 2012; the months of January through July, 2013; and February, April and May, 2015; (8) the defendant failed to submit a truthful and complete written report inasmuch as he did not disclose his contact with law enforcement on August 20, 2013, law enforcement contact on the August 2013 monthly report form; (8) the defendant failed to follow the instructions of the probation officer on each of the six occasions as more fully set forth in Violation No. 3 of the petition; (9) the defendant failed to notify the probation officer within 72 hours of his contact with law enforcement on each of the five occasions as more fully set forth in Violation No. 4 of the petition; (10) the defendant used and possessed amphetamine without a prescription as evidenced by a positive urine specimen submitted

by him on July 9, 2015; and (11) the defendant failed to make monthly restitution payments toward the restitution indebtedness of \$40,092 inasmuch as the court directed that he make monthly payments at the rate of \$750 per month and he has thus far only paid \$9,751 since the commencement of probation on August 17, 2011, and has not made a payment in any amount since April 22, 2013; all as admitted by the defendant on the record of the hearing and as set forth in the petition on probation and amendment thereto.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of probation and, further, that it would unduly depreciate the seriousness of the violations if probation were not revoked, it is ORDERED that the probation previously imposed upon the defendant in this action be, and it hereby is, revoked.

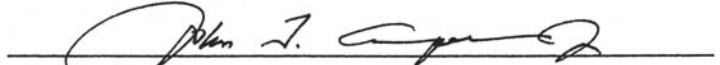
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the

United States Bureau of Prisons for imprisonment for a period of SIX (6) MONTHS, to be followed by a term of one (1) year of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he make monthly restitution payments at the reduced rate of \$100 per month beginning two months after the commencement of the term of supervised release herein imposed with payment due on the first day of each month thereafter. The defendant shall continue to make payments at the rate of \$100 per month until, upon review by the probation officer of the defendant's financial situation, the probation officer recommends to the court that the rate should be revised. Restitution is hereby reimposed in the amount of \$30,441.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: August 11, 2015



John T. Copenhaver, Jr.
United States District Judge